

REMARKS

The Examiner's action dated March 29, 2007, has been received, and its contents carefully noted. In order to advance prosecution, several dependent claims have been added to define the contribution of the invention in greater detail. The three rejections of claims 1, 5, 9, 14 and 15 anticipated by each of Eide, Myers and Manov, applied individually, as well as the rejection of claim 11 as anticipated by Manov, are respectfully traversed for the reason that the novel food cooking surface and kitchen utensil or cooking appliance defined in these claims is not disclosed in any one of the applied references.

In Section 1 on page 2 of the Action, the Examiner indicates that the recitation of a "food cooking surface" is given little weight. It is submitted that this position is incorrect.

Firstly, the designation "food cooking surface" has a definite, recognized meaning in the art. Those familiar with this art are well aware of the requirements for materials that provide food cooking surfaces. The view that "any reasonably flat surface will" be appropriate for the purpose of cooking food is unfounded.

Moreover, the preamble of claim 1 in fact recites a "food cooing surface for a kitchen utensil or cooking

appliance". Those skilled in the art would be well aware of the requirements for a food cooking surface for such a utensil or appliance.

The determination of whether a preamble limits a claim is made on a case-by-case basis in light of the facts in each case. MPEP 2111.02. Thus, a broad statement that the preamble of a present claim is given a little weight, without considering the facts of the present case is unjustified. It is believed that, indeed, the situation in this case is similar to that presented in *Kropa v. Robie*, 88 U.S.P.Q 478, 481 (CCPA 1951) (cited in MPEP 2111.02). Just as the recitation of "An abrasive article" was deemed essential to point out the invention defined by the claims in that case, the recitation of a "food cooking surface for a kitchen utensil or cooking appliance" is essential to point out the invention defined by the claims of the present application. What was stated by the court in *Kropa* that "as only by that phrase that it can be known that the subject matter defined by the claims is comprised as an abrasive article", in the present case it is only by the preamble that it can be known that the subject matter defined by the claims of the present application is comprised as a food cooking surface for a kitchen utensil or cooking appliance.

Of course, by definition, a food cooking surface for a kitchen utensil or cooking appliance must be located to be in contact with the food being cooked, as explicitly stated in the present specification, at page 1, lines 6-7.

None of the applied references discloses a cooking surface for a kitchen utensil or cooking appliance.

Eide describes a cooking vessel having a magnetic layer disposed under a heat distributing layer. The reference discloses that the magnetic layer may be of an amorphous material. However, it is quite clear that such an amorphous material is provided at the bottom of the cooking vessel; it will never be in contact with food and therefore cannot conceivably be considered to constitute a food cooking surface.

Myers discloses a process for depositing an amorphous alloy by electrodeposition. Even though it is true that examples 9 and 11 provided in the reference specification relate to a coating for cookware, it must be understood that term "cookware" designates any kitchen utensil of a general nature and the fact is that nowhere in this reference is there found a disclosure of plating the cooking surface of a cookware product. All of the other examples in the reference relate essentially to knives and the reference clearly indicates that the plating disclosed therein would be

deposited on the exterior, or bottom, of a cookware product, and not on the cooking surface.

This understanding of the disclosure of the Myers reference is corroborated by the absence of any indication therein of the quality of the plating, or coating, if used as a cooking surface, that is its biological safety as a cooking surface, its ease of cleaning, etc. The statements in the reference specification regarding lubricity, which was maintained even when the surface was scrubbed with abrasive materials, clearly suggests that the coating will be deposited on the exterior, or bottom, surface of the cookware.

Thus, in the absence of knowledge of the disclosure of the present application, this reference contains no disclosure indicating that the amorphous material disclosed therein will be used to form the cooking surface of a kitchen utensil or cooking appliance, while it must be noted that the advantages offered by the use of such materials as a cooking surface, as disclosed in the present application, would certainly have been pointed out in the Myers patent if the inventors of that patent imagined that the amorphous alloys disclosed therein could be used as a cooking surface.

Manov, for its part, discloses the use of amorphous alloys on products that have no relation to kitchen utensils or cooking appliances. This reference is simply concerned

with the use of such alloys in heating elements, such as those used in hair dryers, electric heating panels, etc, the elements being in the form of ribbons through which current is conducted in order to generate heat. Thus, this document has absolutely nothing to do with food cooking surfaces.

It is therefore submitted that claim 1 clearly distinguishes over the applied references by its recitation of a food cooking surface for a kitchen utensil or cooking appliance, in which the surface is of an amorphous metal alloy. The clear advantages of the use of such alloy as a food cooking surface are fully described in the present specification.

The comments presented above apply with even greater force to claim 15, which is drawn to an article, i.e. a kitchen utensil or cooking appliance having a food cooking surface as defined in claim 1.

Added claims 16-18 define further details of the cooking surface according to the present invention that serve to distinguish more clearly over the prior art. The recitation appearing in claims 16 and 17 is clearly supported by the disclosure at page 1, lines 6-7 of the present specification, while the limitation presented in claim 18 is inherent in food cooking surfaces.

The other rejections presented in the Action are traversed for the reason that the rejected claims depend from claim 1 and should be considered allowable along therewith. With regard to all of the applied references, the fact remains that nowhere is there a disclosure of the use of an amorphous metal alloy as a food cooking surface for a kitchen utensil or cooking appliance.

In view of the foregoing, it is requested that all of the prior art rejections be reconsidered and withdrawn, that claims 1-18 be allowed and that the application be found in allowable condition.

If the above amendment should not now place the application in condition for allowance, the Examiner is invited to call undersigned counsel to resolve any remaining issues.

Respectfully submitted,

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